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JUL 19 2005

In re Application of
Chesser et al.
Application No. 09/107,979
Filed: June 30, 1998
For: ERBB4 RECEPTOR-SPECIFIC
NEUREGULIN RELATED LIGANDS AND
USES THEREFOR

OFFICE OF PETITIONS

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: Corrected Letter Regarding
: Patent Term Extension
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The above-identified application has been forwarded to the undersigned for correction of the patent term extension information printed on the Notice of Allowance and Issue Fee due that was mailed on June 30, 2005. See 35 U.S.C. §§ 154(a)(2) and (b)(1)¹ and 37 C.F.R. § 1.701(a).

The Notice of Allowance and Issue Fee Due mailed June 3, 2005, incorrectly indicated that the patent to issue from the application 09/107,979 is eligible for 250 days of patent term extension, when no extension is due.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on June 30, 1998, before May 29, 2000 and, as a result, is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995.

¹35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

37 CFR 1.701 is a Patent Term Extension provision for applications filed on or after June 8, 1995 and prior to May 29, 2000.

The provisions of 37 CFR 1.701(c)(1)(ii) provide for patent term extension and apply to suspensions by the PTO due to interference proceedings under 35 U.S.C. 135(a). Prosecution in the application was suspended, however, the suspensions were due to potential interferences with applicants' application with other applications, not to await the result of interference in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply in this application.

After mailing of this decision, the above-identified application will be returned to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **0 days**.

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'Mark Polutta', with a long horizontal flourish extending to the right.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy